Supreme Court, U.S.
FILED

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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1993

WILLIAM A. ORTMAN, et. al.

Petitioners,

v.

OAKLAND COUNTY, MICHIGAN, et. al.

Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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PUBLISHER'S NOTE :

ORIGINAL PAGINATION IS NOT CONTINUOUS.

QUESTIONS PRESENTED

1. Does a court of appeals abuse its discretion in determining that a district judge may, without stating any reasons, summarily and arbitrarily, violate petitioners constitutional rights, dismiss a cause of action with jury demand alleging a series of conspiracies by defendants to violate plaintiffs civil and Constitutional rights, brought in accordance with 42 U.S.C. § 1983 , 18 U.S.C. §§ 1961, 1965 and § 1331 under Rule 56. And where the district judge further failed or neglected to comply with Rules 16 and 26 as regards scheduling discovery proceedings and refused to permit either amendment as of right or by leave. The district judge further entered another summary order for almost $40,000. dollars against the plaintiffs/victims for sanctions again without trial and in issuing garnishment orders in aid of her sanction order while such orders were on appeal and jurisdiction had transferred to the 6th circuit and said judge was challenged for recusal due to bias and prejudice, all in violation of all Constitutional rights, protections and guarantees to be afforded all citizens?

2. Does a court of appeals abuse its discretion in affirming actions of a district judge in arbitrarily overriding both the United

States Constitution and laws passed by Congress requiring protection of citizens of the United States and should this United States Supreme Court recommend to Congress that the district judge and appellate panel be tried for impeachment and the case be returned to the district court, assigned to an impartial judge from another district and be set down for jury trial as is required by the Constitution ?

Rule 14(b) list [1]

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION-FLINT

WILLIAM A. ORTMAN and LAVINA M. ORTMAN,

Civil Action No.

PLAINTIFFS,

v

STATE OF MICHIGAN, COUNTY OF LAPEER, COUNTY OF OAKLAND, COUNTY OF KALAMAZOO, MICHIGAN SUPREME COURT, COURT OF APPEALS, 40TH CIRCUIT COURT, 6TH CIRCUIT COURT, 9TH CIRCUIT COURT, OAKLAND PROBATE COURT, 9-1 DISTRICT COURT, CITY OF KALAMAZOO, CITY OF FARMINGTON HILLS, RALPH J. KLIBER, GERALD SIMON, RICHARD CONDIT, ALEXANDER MCGARRY, JAMES L. WHYARD, ALAN HARNISCH, SEYBURN, KAHN, GINN, BESS, HOWARD & HARNISCH, P.C.; FISCHER, FRANKLIN, FORD, SIMON & HOGG, CONDIT, MCGARRY & SCHLOFF, P.C. LAURENCELLE & ASSOCIATES, INC.; MICHAEL F. CAVAGNAGH, CHIEF JUSTICE; CHARLES L. LEVIN; JAMES H. BRICKLEY; PATRICIA J. BOYLE; DOROTHY COMSTOCK RILEY, ROBERT GRIFFIN; CONRAD MALLETT, JR.; ROBERT J. DANHOFF; DONALD E. HOLBROOK, JR.; JOSEPH B. SULLIVAN; MARK J. CAVANAGH; NORBERT G JAWORSKI; RICHARD M. MAHER; FRED M. MESTER; STEVEN ANDREWS; HUGH DEAN, JR.; EUGENE ARTHUR MOORE, JOHN J. O'BRIEN; DONALD E. JAMES; NORMAN BAGULEY; MARTIN CLEMENTS; WILLIAM SCHMA; DONALD E. JAMES; MILLER, CANFIELD, PADDOCK & STONE; JAMES E. SPURR; CRAIG R. BUSH; MICHAEL L. CHOJNOWSKI; HARNISCH & ASSOCIATES, P.C.; JOHN DOE

1

DEFENDANTS,

/

COMPLAINT

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN

WILLIAM A. ORTMAN Civil Action No.91-CV-74299-DT
and LAVINA M. ORTMAN, and the
ESTATE OF MARCELLA G. ORTMAN, DECEASED
JUDGE: ANNA DIGGS TAYLOR
PLAINTIFFS,

v

COUNTY OF OAKLAND, JOHN NICHOLS; JOHN HAYS; C. Hugh Dohany; RALPH J. KLIBER,GERALD SIMON, FISCHER,FRANKLIN,FORD,SIMON & HOGG, RICHARD CONDIT,ALEXANDER MCGARRY, CONDIT, MCGARRY & SCHLOFF, P.C. JAMES L. WHYARD, LAURENCELLE & ASSOCIATES, INC. ALAN HARNISCH, Harnisch & Associates, P.C.; SEYBURN,KAHN,GINN,BESS,HOWARD & HARNISCH,P.C.; ROBERT J. DANHOFF; DONALD E. HOLBROOK,JR.; JOSEPH B. SULLIVAN; MARK J. CAVANAGH; NORBERT GJAWORSKI; RICHARD M. MAHER; DAVID H. SAWYER; THOMAS J. BRENNAN; FRED M. MESTER; HUGH DEAN,JR.; EUGENE ARTHUR MOORE, JOHN J. O'BRIEN; NORMAN BAGULEY;MARTIN CLEMENTS; THOMAS BUTERFIELD, LAPEER TITLE COMPANY; CYNTHIA CALDWELL, MARK EDWARDS, SIDNEY MACK SULLENGER ANN MARIE SULLENGER; ROBERT l. GILLING, CONNIE J. GILLING, THOMAS KENNY, KAY KENNY WILLIAM SCHMA; DONALD E. JAMES; MILLER,CANFIELD,PADDOCK & STONE; JAMES E. SPURR; CRAIG R. BUSH; MICHAEL L. CHOJNOWSKI; Donald E. Litke and Linda B. Litke, RICHARD HALIDAY; KALAMAZOO METAL FINISHERS, INC. JOHN DOE

DEFENDANTS,

_____/

AMENDED COMPLAINT NO. 1.

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WILLIAM A. ORTMAN Civil Action

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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1993

WILLIAM A.ORTMAN, et. al. Petitioners
v.
COUNTY OF OAKLAND, MICHIGAN, et. al.
Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

Your petitioners, WILLIAM A.ORTMAN, et. al. respectfully pray that a writ of certiorari and/or mandamus or both issue to review the judgment and opinion of the United States Court of Appeals for the Sixth Circuit, entered in the above entitled proceeding on January 18, 1994. *OPINIONS BELOW*

Petitioners appealed to the U. S. 6th Circuit Court of Appeals pursuant to 29 U.S.C. §§ 1291, 1292, 1294 and ARTICLE III OF THE UNITED STATES CONSTITUTION.

The opinion of the Court of Appeals for the Sixth Circuit is "not recommended for full text publication" and petitioner is unaware if the case has been reported. A copy of the decision is attached.

JURISDICTION

Invoking federal jurisdiction under 42 U.S.C. § 1983 and

Title 18 U.S.C. §§ 1961, 1965, et. seq. and Title 28 U.S.C. §§ 1331 and 1343 the petitioner brought this suit in the U.S. District Court, Michigan, Eastern Division. Plaintiff's action was based upon sufficient allegations of violations of his civil and Constitutional rights espoused in Const. Art.4, § 2,cl.1, AMENDMENT IV, AMENDMENT V, AMENDMENT VII AND AMENDMENT XIV of the United States Constitution in addition to laws passed by Congress. The District Court arbitrarily and capriciously dismissed the suit without reason and sanctioned plaintiff, all the while ignoring petitioners Constitutional and civil rights, the rules provided permitting plaintiff to amend and refusing to disqualify herself when challenged, even permitting unauthorized garnishments of both plaintiffs and plaintiff's adult children's bank accounts to allegedly satisfy a summary order of the court entered without due process and while the matter was on appeal and the district judge was challenged for recusal for bias and prejudice. [Federal Rules of civil procedure do not encompass garnishment procedures and further require a hearing by a disinterested judge as regards any recusal petitions.]

On petitioner's appeal, the 6th Circuit on January 18, 1994 contrary to the United States Constitution and all rules of law

established by stare decisis decisions of this and other federal courts, affirmed the granting of a blanket summary judgment for all defendants prior to discovery and or pretrial and while negotiations between attorneys were in progress as regards corrections of pleadings; the denial of motion to amend the complaint [which had been duly filed as a matter of right] and the imposition of Rule 11 sanctions again without trial or due process. The opinion was marked:"NOT FOR PUBLICATION". No petition for rehearing was sought. The jurisdiction of this Court to review the judgment of the 6th Circuit is invoked under 28 U.S.C. § 1254(1), §2101(c) and 28 U.S.C.A. § 1651(a).

This writ is in aid of the court's appellate jurisdiction as there are present exceptional circumstances warranting the exercise of the court's discretionary powers and that adequate relief can not be obtained in any other form or in any other court. Relief is sought from the actions of circuit judges Alan E. Norris, Eugene E. Siler, Jr., and district judges John G. Heyburn II and Anna Diggs-Taylor.

The opinion appears to be necessarily based upon conjecture and supposition rather than facts as regards acts other than those taken by the district judge for the reason that the trial required by AMENDMENT VII of the United States Constitution was summarily

denied.

The opinion appears to condone the substitution of what it calls 'judicial discretion' in the place and stead of required Constitutional mandates and safeguards and boldly approves the capricious action of summary dismissal by the district judge on the basis of personal friendship with certain defendants rather than the laws which are applicable and the facts as set forth in the complaints and application for issuance of protective order.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The Complaint alleges these defendants, acting in conspiracy, deprived Plaintiffs of their U.S. constitutional rights under Const. Art.4, § 2,cl.1, The citizens of each state shall be entitled to all Privileges and Immunities of Citizens in the several states; Amendments One...to petition the government for a redress of grievances;

Plaintiffs filed a complaint based on fact, pro se, and as the attorney for other Plaintiffs, with jury demand[2] in federal district court on August 26, 1991 based upon 42 U.S.C. Sec. 1983 which

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U.S. Const.,Amend.VII CIVIL TRIALS
"...where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved,..."

provides that every person who, under color of any statute, etc. subjects or causes any U.S. Citizen to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress.

The complaint and/or amended complaint, alleged that defendants, acting in conspiracy, deprived plaintiffs of their U.S. Constitutional rights under the Constitution, including, but not limited to, the Fourth,[3] Fifth,[4] Sixth,[5] Seventh,[6] Eighth[7] and

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3 "The right of people to be secure in their persons, houses and effects...,and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation..."

4 "...nor be deprived of life, liberty, or property, without due process of law;"

5 Amend. VI. "In all criminal prosecutions, the accused shall enjoy the right...to be informed of the nature of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."

6 "Right to jury trial."

Fourteenth[8] *by these defendants, acting under color of law, in not one, but several instances.*

The complaint and/or amended complaint additionally alleged statutory violations of 42 U.S.C. §§ 1983; 1985; 1986 and 1988; Title IX of the Organized Crime Control Act of 1970, as amended; Title 18 U.S.C., Sec. §§ 1961, 1965 et. seq. and Title 28 U.S.C. §§ 1331 ?

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7 Amend VIII "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

8 "... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

Plaintiffs filed a complaint based on fact, with jury demand [U.S. Const., Amend VII, Civil Trials: "...where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved,..." in federal district court on August 26, 1991 based upon 42 U.S.C. § 1983 which provides that every person who, under color of any statute, etc. of any state, subjects or causes any U.S. citizen to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress. (R.9:Complaint)

The case was marked for filing in Flint, Michigan in accordance with the Court Rules. Mysteriously, it was instead assigned to district judge Taylor in Detroit.

The Complaint alleges these defendants, acting in conspiracy, with other defendants, deprived Plaintiffs of their U.S. constitutional rights under Amendments Fourth,[9] Fifth,[10] Sixth,[11] Seventh,[12]

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9 "The right of people to be secure in their persons, houses and effects...,and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation..."

Eighth[13] and Fourteenth[14] acting under color of law, in not one, but several instances.

Plaintiffs filed a complaint based upon fact in federal district court based upon 28 U.S.C. Sec. 1331 which act provides the federal district courts have original jurisdiction of any/all civil actions

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"...nor be deprived of life, liberty, or property, without due process of law;"

11

Amend. VI. "In all criminal prosecutions, the accused shall enjoy the right...to be informed of the nature of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."

12

"Right to jury trial."

13

Amend VIII "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

14

"... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

commenced under the above federal laws.(R.9:Complaint)

Along therewith, Plaintiff filed his application for an injunctive order, ex parte, based upon the verified complaint. (R.9.) and showing that defendants were not only attempting to have plaintiff falsely arrested and falsely imprisoned a second time, but that defendant Harnisch, a crony of defendant judge Mester who had been illegally appointed by defendant judge Mester, without benefit of any law, to aid and assist defendant judge Mester's other crony defendant Whyard, rob plaintiff of his liberty and property, had broken and entered plaintiff's home under the pretext of serving expired pleadings; and according to sheriff deputies, had incited them or attempted to incite them to "shoot plaintiff on sight; e.g., cold bloodedly murder plaintiff as plaintiff was a cop killer.".

The court may note from record that defendant Harinsch is president of the Federal Bar Association and a reputed white collar criminal defense lawyer and former U.S. Attorney and associate of judge Taylor as is/was defendant Mester.

According to the allegations of the complaint, Plaintiffs are suffering ongoing irreparable harm and injury by deprivation of their liberty, property and Constitutional rights, which were spelled out in the complaint, without any required due process of law.

Plaintiffs sought both legal and equitable relief as well as prospective relief.

The first incident involved the Plaintiff Marcella G. Ortman matter wherein Petitioner filed a probate proceeding to have his aged mother protected by the probate court when she became afflicted with Alzheimer's disease as a result of a fall and subdural hematoma.

Defendant Kliber and his law firm partners conspired with defendants Condit, defendant probate judges Moore and O'Brien and others to violate said plaintiff Mrs. Ortman's Constitutional and civil rights to extort her estates in violation of law. State court records showed that neither of the two defendant probate judges had jurisdiction at the time of their alleged crimes, but acted under color of law to award large amounts of monies to defendant lawyers Condit , Kliber, et.al. Condit was a long standing crony of defendant judge Moore having been a clerk for the judges father, also a judge and reportedly defendant Kliber had hired or surreptitiously had others hire defendant Condit for his claimed backstairs courthouse connections.

Probate judge O'Brien was the judge originally assigned in the Frank J. Ortman probate estate. Judge O'Brien would refuse to hear regularly scheduled hearings, thus depriving such decedent

estate and heirs of any Constitutional rights. Defendant judge O'Brien would ultimately, in error, rule that he had no jurisdiction and transfer the matter to Wayne County although Mr. Frank Ortman was a lifetime resident and expired in Oakland County. Defendant judge O'Brien was subsequently convicted of a federal crime and removed from the bench.

In one of the William Ortman matters, Petitioner had filed suit for partition of lands under state law which he owned jointly with his two siblings in the county where the land was situate. The defendant Lapeer judge arbitrarily and summarily dismissed the suit. When petitioner appealed the dismissal to the state intermediate appellate court, presiding defendant judge Sullivan of a panel of three solicited a bribe from petitioner. It is public knowledge that certain state court of appeals judges solicited bribes or otherwise engaged in illicit schemes of public corruption. [This public corruption is "overlooked" by the state Judicial Tenure Commission on a regular basis.] When refused a bribe, defendant judge Sullivan ruled that the lower court judge did not have to obey either the United States nor State Constitutions requiring access to courts and asserted the rejection of other Constitutional protections, fabricated a false reason to supposedly support the decision; i.e., falsely stating

plaintiff had neglected to check a box on a form when suit was filed. The lower court judge thereupon, without notice confiscated $30,000 plus interest of petitioners funds and awarded it to a sibling of petitioner as a straw man. The same judge awarded the siblings lawyer upwards of $20,000 as alleged attorney fees for a five minute court appearance and issued a warrant for petitioners arrest if petitioner did not pay the $20,000

By way of further conspiracy, the lawyer prepared a garnishment and served it upon his client, Petitioner's sibling, who then turned $20,000.+ of petitioners funds over to his lawyer. The defendant lawyer maliciously neglected to cancel the warrant and petitioner was falsely arrested, chained and subjected to a series of false imprisonments in cells and cages, all under color of law, by yet another circuit judge acting without any jurisdiction allegedly for defendant Condit's neglect or refusal to cancel the warrant after he stole Petitioner's $50,000.+ in conspiracy with defendant judge Baguley and Petitioner's sibling. On remand and after discovery proceedings, it appears another amended complaint will be necessitated.

The Michigan Supreme Court, at all times, refused to consider the matters contrary to all law.

In another incident involving petitioner William A. Ortman, defendant Condit and his law partners commenced an identical suit in Oakland county, said defendants 'home' county although proper suit was already pending in Lapeer County. Defendant Oakland County judge Mester, acting under color of law as he had no authority and could never acquire any authority or jurisdiction by law, repeatedly awarded his crony Condit large sums of money and threatened petitioner with false arrest, false imprisonment with unconscionable and unlawful bail if the extortion was not paid. Defendant Mester, in conspiracy with other defendants, further entered contempt orders against petitioner ex parte and set bond in unconscionable amounts beyond his authority and Constitutional limitations. This judge, defendant Mester, became so carried away with his abuse of power, public corruption and payment of the extortion funds that he boldly informed petitioner that he was going to steal, extort all of petitioner's property under color of law and there was nothing petitioner could do about it. This defendant judge without any jurisdiction "appointed" his friends, defendants Whyard and Harnisch, without benefit of any law, to sell petitioners Texas property consisting of a Section of land; i.e., 640 acres and other property located out of his jurisdiction consisting of an additional

approximate Section of land and pocket the cash proceeds from the illicit sales. [1,280 acres of valuable land.]

The value of this property was at least $10,000. per acre times 640 for a total of $640,000. and it is petitioner's understanding that the property was conveyed to a Texas bureaucrat for a price of $100. per acre. The property is situate 27 miles from the biggest oil strike in Texas history. The additional acreage is even more valuable and being allegedly "sold" under color of law because federal judges refuse to apply the law.

This defendant judge was so bold that he further entered a 'deficiency' judgment against petitioner as he thought his friends should have greater loot/booty. Defendant judge Mester had petitioner falsely arrested, chained and falsely imprisoned and set bond/bail in the amount of $50,000. cash, an amount beyond any Constitutional authority, in order to extort monies and properties from petitioner. It is well settled law that a Michigan judge has no authority or jurisdiction over Texas property.

In yet another instance involving petitioner William A. Ortman, defendants Miller, Canfield, Paddock and Stone, a law firm of upwards of 300 lawyers along with Donald E. James,William Schma, James E. Spurr, Michael Chojnowski, Donald Litke, Linda

Litke, et.al. including defendant Ralph J. Kliber who worked for defendants Miller, Canfield, et.al. as an expert witness and steered clients to them; i.e., in the instant mater, the alleged The Ortman Company, a non-existent business entity sought to be fraudulently kept alive and alleged assets fraudulently transferred to another bogus corporation called Ort-Fam, by defendant, co-conspirator Kliber in furtherance of his conspiratorial scheme to violate Plaintiffs civil rights and defraud them of their property, all in violation of the U.S. Constitution, conspired with other defendant state judges to steal defendants valuable commercial property located in Kalamazoo, Michigan and valued at approximately one million dollars. Petitioner and his two siblings had sued trespassers in a state district court under a state law which provided for exclusive jurisdiction of such court for possession of his building. Defendants Miller, Canfield, Paddock & Stone, whose partner is president-elect of the American Bar Association [and another partner sits as a federal judge with judge Taylor] commenced a frivolous suit in a circuit court without any jurisdiction, such jurisdiction being pre-empted by state law. The defendant judge therein promptly and summarily gave the property (by court order in substitution of deed) to alleged clients of Miller,Canfield without any consideration to

Petitioner.

The Clerk of this honorable U.S. Supreme court is extremely active in American Bar Association matters and petitioner is apprised that the Clerk's office paid special attention and homage to said defendant/Respondent law firm in a related matter perhaps even committing improprieties which need be investigated by this honorable Supreme Court and/or an independent branch of government.

Plaintiff filed a complaint based upon facts in federal district court based upon 18 U.S.C., Sec. 1961; Sec. 1962 and Sec. 1964 (RICO) over which U.S. District Courts have exclusive jurisdiction as defendants, co-conspirators herein utilized the U.S. Mail Service in their conspiratorial scheme and conduct to defraud Plaintiff and falsely arrest and imprison Plaintiff in violation of U.S. constitutional rights as aforesaid and rob and extort Plaintiff's property, and obstruct justice through a pattern of racketeering activity as is factually alleged entitling Plaintiff to triple damages under federal law as well as under state law applicable in federal cases.

District judge Diggs-Taylor refused to issue an injunctive order although both the verified complaint and separate affidavit of

facts in support showed unequivocally that defendants were attempting, for a second time to have plaintiff falsely arrested and incarcerated in order to extort more of plaintiff's property, under color of law. More importantly perhaps is the fact that defendants, co-conspirators Mester and Harnisch, reportedly a close friend of judge Taylor, along with co-conspirator Whyard, attempted to have petitioner murdered, under color of law while committing extortion. Defendant state judges had a clear absence of any jurisdiction. Defendants were also, in addition to attempting to take plaintiffs liberty and property a second time, utilizing sheriff deputies to murder plaintiff. The judges cronies were also acting under color of law and went so far as to claim defense of immunity.

The district judge refused to issue a protective injunctive order stating she had no authority and, in fact, illegally referred the matter to her magistrate. The record suggests that the magistrate also became involved in the conspiracy. Thereafter, the district judge refused to conduct a regularly scheduled evidentiary hearing or allow petitioner to make a record with subpoenaed witnesses as regards the issuance of an injunctive order and summarily and arbitrarily dismissed the request for a protective/injunctive order to preserve the status quo.

The district judge further arbitrarily set aside default judgments regularly entered by the clerk's office. The district judge refused to schedule discovery permitted under Rule 26 and Rule 16. The district judge refused to allow an amended complaint filed in accordance with Rule 15 and further denied leave to amend even though such leave is required under the same rule.

The district judge dismissed the suit summarily and fined plaintiffs/victims in the sum of $40,000. Plaintiffs say this action violates Plaintiffs' right to have meaningful access to the courts which is basic to the American system of government and is a fundamental right under the Constitution, U.S.C.A. Const. Art.4, § 2, cl.1; Const. Amends. 1, 5 and 14. Further, that such arbitrary dismissal violates plaintiff's constitutional Amendment rights to a jury trial under Amendment VII and that fining plaintiffs $40,000. dollars violates their Const. Amend. 5, 14 and 8 and is unconscionable.

Petitioner was informed that both defendants Harnisch and Mester were close pals while in the employ of the U.S. Attorney office in Detroit. Petitioner was further informed that defendant Harnisch and Federal District judge Taylor were close friends. Based on these reports, petitioner filed motion for recusal which judge Taylor took

upon herself to dismiss without notice.

Judge Taylor issued garnishment process based upon her orders for defendants Miller, Canfield, Paddock & Stone even while the matter was on appeal to the 6th Circuit Court of Appeals. There is no provision for garnishment process under the federal rules. Jurisdiction transfers to the appellate court upon the filing of an appeal. Judge Rosen of the same bench and a colleague of judge Taylor's is a former member of said firm. Such action/conduct by judge Taylor is contrary to law.

Petition was made to the 6th Circuit Court of Appeals for a protective injunctive order nunc pro tunc on the basis that that court had the requisite jurisdiction. The court denied injunctive relief and the defendants have continued to falsely arrest, falsely imprison and extort petitioner's property to the present date; including, but not limited to continuing garnishment orders served on the non-existent The Ortman Company in a continuing illegal conspiracy as between defendants Harnisch and Condit.

REASONS FOR GRANTING THE WRIT(S) I.

The Opinion of the 6th Circuit Court of Appeals has exceeded the scope of its judicial authority in the present matter and the aggrieved party should be granted the writ almost as a matter of

right. U.S. v Denson, C.A. 5th, 1979, 603 F.2nd 1143, 1146-1148.

ARTICLE VI of the Constitution makes the Constitution the "Supreme Law of the Land". Marbury v Madison, 1 Cranch. 137, 177 (1803). No agency of the State nor officers or agents by whom its powers are exerted, shall deny to any person the equal protection of the laws. Ex Parte Virginia, 100 U.S. 339, 347 (1879); Cooper v Aaron, 358 U. S. 1 (1958).

U.S. Constitution, Article VI, Clause 2. "The Constitution and the Laws of the United States which shall be made in Pursuance thereof...shall be the supreme law of the Land; and the judges in every state shall be bound thereby; any thing in the Constitution or laws of any State to the Contrary not withstanding."

In Shelly v Kramer, 334 U.S. 1, 19 (1948) the court relied upon the well established rule that state action "includes action of state courts and state judicial officials." 334 U.S. at 18. "The equal protection clause of the Fourteenth Amendment provides that no State shall...deny to any person within its jurisdiction the equal protection of the laws." As this Court has noted in the past, the "rights created by the first section of the Fourteenth Amendment are, by its terms, guaranteed to the individual. The rights established are personal rights.

Petitioner commenced an action in federal district court based upon ARTICLE III, Section 2 and ARTICLE VI. Clause 2 showing violations of Plaintiffs rights under the U.S. Constitution; to-wit: Amendment IV which protects citizens from unreasonable searches and seizures and issuance of warrants for arrest without probable cause. Petitioner was not only harassed-illegally searched, detained and falsely arrested; but even chained and shackled (showing excessive force; and suffered severe a blow to his head while falsely imprisoned because of the wanton neglectfulness of deputies).

Petitioner was again falsely arrested, chained like an animal and cast into prison prior to Christmas of 1993 by a court without any jurisdiction on the basis of arrest and imprisonment for an alleged and false civil debt. This is in direct violation of state Const. Art.I § 21, "No person shall be imprisoned for debt..."Query - Are not debtors prisons unconstitutional throughout America?

"To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort." United States v Choate, 619 F.2d 21,23.

The Fourth Amendment was meant to prevent wholesale intrusions upon the personal security of our citizenry, whether these

intrusions be called "arrests" or investigatory detentions." John Davis v State of Mississippi, 80 S. Ct. 1394 (1969). In civil rights suit, there were issues of fact concerning probable cause for arrest and use of excessive force, precluding summary judgment on claims of false arrest, false imprisonment and use of excessive force. Simpson v Saroff, D.C.N.Y. 1990, 741 F. Supp. 1073 . Another case on all 4(s). Amendment V - No person shall be deprived of life, liberty or property without due process of law. Petitioner was summarily commanded to be falsely arrested, secured with manacles and chains and falsely imprisoned without notice nor trial by defendant Mester so that said defendant could extort petitioner's property contrary to this constitutional amendment which guarantees due process. Federal Deposit Ins. Corp. v Morrison, 747 F.2d.610 (1984);

Amendment VII, the right of trial by jury in suits where the value in controversy shall exceed twenty dollars. Right to jury trial in federal court is basic...court should grant jury trial...Swoford v B & W, Inc. C.A. Tex 1964 336 F 2d 406; This Amendment and rule 38, FRCP, 28 U.S.C. providing that right of trial by jury shall be preserved to the parties inviolate, etc. Dixon v Northwestern Natl. Bank of Minneapolis, D.C. Minn 1969, 297 F. Supp. 485. Amendment VIII, nor cruel and unusual punishments inflicted.

Petitioner was fined and sanctioned without cause; eg, probable cause, nor trial by judges without jurisdiction and in excess of state authority under threat of further imprisonment for the sole purpose of extorting his property and oppression by abuse of authority.

And Amendment XIV wherein Petitioner was deprived of his liberty + (life threatened), without any due process of law and denied the equal protection of the law; all under color of law.

*Without the guarantee of "due process" the right of private property cannot be said to exist, in the sense in which it is known to our laws. The principle, known to the common law before magna charta was embodied in that Charter (2 Coke, Ins. 45, 50) and has been recognized since the Revolution as among the safest foundations of our institutions. *** Whatever else may be uncertain about the definition of the term "due process of Law", all authorities agree that it inhibits the taking of one man's property and giving it to another, contrary to settled usages and modes of procedure, and without notice or an opportunity for a hearing. *** Ochoa v Hernandez Y Morales, 230 U.S. 139 (1912).*

Under 42 U.S.C. §1983, a party deprived of a federal constitutional or statutory right by a public official may seek redress

in federal court. The civil rights statute serves three functions: (1) it operates to deter public officials from violating citizens constitutional rights; (2) it affords compensation to victims of unconstitutional official behavior; and (3) it serves as a vehicle for the development of federal constitutional rights. Carey v Piphis, 435 U.S. 247, 253-57 (1978).

District judge Taylor, in error, refused to issue an ex parte protective order or hold hearings on such request, but nevertheless illegally referred the matter to her magistrate and subsequently summarily dismissed stating she was not empowered to issue injunctive orders. Said judge next granted a motion for summary judgment as regards all defendants refusing petitioners request for discovery and pre-trial conference and neglected, failed or refused to set forth any basis for the entry of such orders; entered a subsequent order denying leave to amend as regards an already filed amended complaint not requiring leave of court and assessed approximately Forty ($40,000.00) in sanctions against Petitioner stating the conclusion that the complaint is not well grounded in fact, nor warranted by existing law. Poe v Haydon, 853 F.2d 418 (6th Cir.1988) "we believe that it is a better practice for the district court to set forth with precision the basis for its decision." Dominique, 831

F. 2d at 677. We are bound to accept the allegations of the complaint as true in deciding whether a motion to dismiss was properly granted. L'Orange v MedicaL Protective Co, 394 F.2d 57,59 (6 Cir); F.R.C.P. 12(b)(6), 28 U.S.C.A. For purposes of determining whether cause of action has been stated, complaint will be construed liberally. Id.,p.58

APPEAL TO 6TH CIRCUIT

Petitioners appealed to the U. S. 6th Circuit Court of Appeals pursuant to 28 U.S.C. §§ 1291, 1292, 1294 and ARTICLE III OF THE U.S. CONSTITUTION. Petitioner also requested entry of a protective order nunc pro tunc. § 1983 expressly permits injunctive relief against state judges. Ex parte Virginia, 100 U.S. 339 (1880); Mitchum v foster, 407 U.S. 225 (1972) ; Pulliam v Allen, 466 U.S. 522 (1983).

The court denied the protective order which denial encouraged the defendants to continue violating petitioners civil and Constitutional rights by robbing, looting and extorting petitioner's property and liberty by further false arrests and false imprisonments and continuous extortion of petitioner's property.

Petitioner brings to the attention of the Court the continuing violations of federal law continuing in both state courts where

defendants continue to fraudulently steal and extort petitioners property without notice nor jurisdiction and the federal district court where fraudulent garnishment affidavits have been illegally filed and acted upon not only against petitioner's assets, but those of his adult children. The rule is that: "Once a notice of appeal has been filed, district court ordinarily loses jurisdiction to make any further determinative ruling in the case which is the subject of notice. MacArthur Drake, et.al. v Keith L. Gordon, et.al. 848 F.2d 701 (6th Cir. 1988).

The Opinion of the 6th Circuit goes beyond error. It is perverse. Federal district courts have subject matter jurisdiction over all § 1983 claims under the general federal question statute, 28 U.S.C. § 1331. § 1983 provides express congressional authorization for private party enforcement. Wilder v Virginia Hospital Association, 110 S Ct 2510,2517 n.9 (1990). The very purpose of § 1983 is to interpose the federal courts between the States and the people, as guardians of the people's federal rights-to protect the people from unconstitutional action under color of state law. Mitchum v Foster, 407 U.S. 225, 242 (1972) and Will v Michigan Dept of State Police, 109 S.Ct. 2304, 2319.

The statute was enacted in order to create a federal remedy that

protects the people from unconstitutional action under color of state law "whether that action be executive, legislative, or judicial." Id., quoting Ex Parte Virginia, 100 U.S. 339, 346 (1879).

Section 1983 provides that a person who, acting under color of state law, violates another federally protected rights "shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress." Evans v Jeff D., 475 U.S.717, 732 (1986)

The background contained in the Opinion recites that the state of Michigan sought dismissal on various grounds. This statement is conjecture. The fact from record is that petitioner and the state assistant attorney general had reached agreement to dismiss the state as a defendant and the state was, in fact, dropped as a defendant. [15]

The complaint and amended complaint No.1 set forth that the Defendants more specifically conspired together and devised a fraudulent scheme to extort money and property from Plaintiffs-Petitioners and falsely arrest and imprison Plaintiff-Petitioner William A. Ortman, under color of the laws of the State of Michigan

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15 See amended complaint No. 1.

and commit other heinous and egregious acts, all as prohibited by the U.S. Constitution and federal statutes as made and provided. These are real facts.

On p.5, the Opinion states: Further, § 1983 claims are alleged against defendants who are attorneys or law firms who represented other defendants in the earlier litigation." It is not clear whether the language has reference to lawyers; such as, Ms. Ross who filed a brief in the 6th Circuit which contained misinformation to deceive the Court and for which said 6th Circuit should have commenced disciplinary proceedings for her disbarment or Mr. Santeufemia who filed pleadings with said court prior to admission to the bar of that court. Mr. Santeufemia additionally requested sanctions for such work submitted even though not admitted to practice before such court as did Ms. Ross. In both instances, disbarment should be sought upon the courts own motion. Petitioner is not aware that either of such lawyers was ever a 'defendant'.

The facts from record indicate that specific defendant attorneys were lawyers and surreptitiously utilized some persons as clients to cloak their criminal actions under color of law.

When Congress enacted §1983 as the statutory remedy for violations of the Constitution, it specified that the conduct at issue

must have occurred "under color of" state law; thus, liability attaches only to those wrongdoers "who carry a badge of authority of a State and represent it in some capacity, whether they act in accordance with their authority or misuse it." Monroe v Pape, 365 U.S. 167, 172 (1961). As we stated in United States v Classic, 313 U.S. 299, 326 (1941):"Misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken 'under color of' state law". NCAA v Tarkanian, 488 U.S. 179 (1988) holds:"In the final analysis the question is whether the "conduct allegedly causing the deprivation of a federal right [can] be fairly attributable to the State." Lugar v Edmundson Oil Co., 457 U.S. 922,937 (1982).

The Court may wish to note that in the instant case, Plaintiff, in fact, sued state officials in their individual capacities as well. Plaintiff also sued individuals engaged in conspiracy with state judges and officials. In both Adickes v. S.H. Kress & Co., 398 U.S. 144 (1970) and Dennis v Sparks, 449 U.S. 24 (1980) the Court held that the private parties could be found to be state actors, if they were "jointly engaged with state officials in the challenged actions."

An example is appointment of defendant Whyard by judge Mester to sell petitioner's property. Defendant judge Mester has no

jurisdiction and neither is there any authority for a judge to appoint his crony to sell someone else's property. Defendant judge Mester also "appointed" his crony Harnisch as the alleged attorney to protect the defendant Whyard. There is no basis in law for appointing a lawyer to defend a criminal in the perpetration of a crime.

Nor did the Oakland court without jurisdiction in Michigan acquire any jurisdiction over the Texas property in which Petitioner had an interest. U.S.C.A. Const. art.4,§§1,2 Amends.5,14 §1 Stewart v Eaton, 283 NW 651

Under the provisions of the fifth and fourteenth amendments to the United States Constitution, Plaintiffs-Petitioners are entitled not to be deprived of their property without due process of law. Civil litigants in federal court share equally the protection of the Fifth Amendment's due process clause. Green v Bock Laundry Machine Co.,1989, 490 U.S. 504.

Article 7 guarantees the right to have access to the courts. Litigants in federal courts cannot, by rules of state procedures, be deprived of fundamental rights guaranteed by the U.S. Constitution and laws of the United States, such as the right to trial by jury. Lyon v Mutual Benefit Health & Accident Ass'n, Ark. 1939, 59 S Ct. 297, 305 U.S. 484.

As regards two defendant clerks who each refused to process pleadings according to the Complaint. Curtis W. Morrison v Lipscomb, 877 F.2d 463 (6th Cir. 1989) Clerk's are not entitled to any type of "immunity" as they are not judges. This case is also on all fours because of the similarity; eg, Judge Anna Diggs Taylor dismissed complaint against all judges; denied motion to amend complaint and assessed fees and costs pursuant to Rule 11 on the conclusory basis plaintiff filed his suit without making a "reasonable inquiry" as to the law.

The Opinion at I., p.3. states the conclusion [without any basis in fact]: "As to the judges of the five specific courts, etc., the doctrine of absolute judicial immunity protects them from suit based on their judicial acts. This policy is based on the principle that a "judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself". The rhetoric is wonderful in sound, but a clear misstatement as totally inapplicable to the present situation.

In the instant matter, all judges factually acted without any jurisdiction or if with jurisdiction, in a criminal or negligent manner, but in any event, contrary to law.

It is well settled that a panel of the Court of Appeals is bound to follow previous decision of the court as controlling circuit precedent absent a change in the substantive law or an intervening Supreme Court decision. Smith v U.S. Postal Service, 766 F.2d 205 (6th Cir 1985); Salmi v Secretary of Health and Human Services, 744 F.2d 685 (6th Cir 1985).

It is important to note that the 6th circuit opinion is in direct conflict with the law as previously stated by both the 6th circuit, other federal courts and this honorable Supreme Court as regards immunity of judges and clerks.

Under I. of the OPINION is the false conclusion/statement:"The acts that plaintiffs complain of all took place in the official capacity of each individual judge." This statement is not factual and is false.

THE ENTIRE OPINION IS BASED ON FALSE PREMISES AND CONCLUSIONS APPARENTLY BASED UPON SUPPOSITION OUTSIDE OF THE RECORD.

In the matter of Morrison v Lipscomb, 877 F.2d 463 (6th Cir. 1989), a landlord sued three state court judges alleging deprivation of constitutional rights. USDC-ED, judge Anna Diggs Taylor, the same judge presently involved, dismissed the complaint

against all judges, denied plaintiffs right to amend his complaint and awarded attorneys fees and costs to defendants.

The instant cause may be said to be on all 4(s) in certain aspects; only a stronger case. In the instant matter, Petitioners are Caucasians whereas in Morrison the case recites that plaintiffs in that case are Black [now termed Afro-Americans]. In the present matter, White or Caucasian plaintiffs seek relief from errors amounting to fundamental misconceptions of law as well as abridgement of petitioners civil and Constitutional rights by the same district judge. In Morrison, the USCA found that state court judge is not entitled to judicial immunity as the judge was acting in his administrative and not judicial capacity.

In Morrison the 6th circuit stated:"It is a prime tenet of our American political philosophy that government has a responsibility to protect the lives, liberty and property of its citizens and part of that responsibility includes the provision of courts where individual citizens can seek the vindication of their rights. Morrison has the right to go to court to recover his property; it is not a privilege that can be granted or denied him at the governments whim. It is this right to vindicate one's rights in court that is the heart of the constitutional right to due process of law.

Does the 6th Circuit reverse itself in the present unpublished opinion because plaintiffs are Caucasian ?

In the present case, there are clerks and at least one judge who acted in an administrative capacity; namely defendants Norbert Jaworski,a state court of appeals clerk who refused to process an appeal and demanded the filing of two appeals involving one matter. This act is not only contrary to law, but directly injures petitioners by violations of Constitutional and civil rights. Defendant Hugh Dean, Jr. an Oakland County probate clerk who suppressed a Bond On Appeal which had been approved by a judge and tendered for filing; eg, the filing of a Bond On Appeal Stays all proceedings in the lower court; and defendant judge Martin Clements who entered an order dismissing a valid suit filed for partition of real property over objections and who was not authorized by law to enter such an order as he was not the trial judge; along with those members of the state supreme court who refused to hear Petitioners appeal, thus denying Petitioners their right of review.

These actions violated the 14th Amendment to the Constitution by depriving Petitioners of their substantive and procedural due process rights. There is not even a hint of limited immunity for the reason that the complaint clearly contained all of

the factual allegations necessary to sustain a finding that defendants violated clearly established law. Dominique v Telb, 831 Fed.2d 673,676 (6th Cir.1987)

In the instant matter, some of the defendants raised an issue of immunity as regards certain judges and clerks, thus admitting an issue of fact to be determined and precluding summary judgment. According to the rules laid down in the Morrison case by this Court, these defendants do not have any immunity and if they did, it would be a question of fact and the district judge could not grant summary judgment. This Court cited Forrester v White, 484 U.S. 219, 108 S. Ct. 538 (1988) "The Court has thus attempted to give a flexible definition of what constitutes a judicial act. Clearly the paradigmatic judicial act is the resolution of a dispute between parties who have invoked the jurisdiction of the court." It is inconceivable for an appellate court to suggest that the wilful, malicious act of a clerk in trashing a Bond On Appeal when proffered for filing does not constitute an obstruction of justice and is indicative of why Americans have lost all respect for courts and the judicial system. [See Wall Street Journal article October 13, 1993, A21 by Kenneth W. Starr, a former federal judge and solicitor general, Mr. Starr exposes that the Supreme Court has abdicated its responsibility to

select cases through lack of attention to the review process and ceded its power to inexperienced clerks. Solicitor General Starr refers to this as a 'judicial Bermuda Triangle'.]

It is a fact that district judge Taylor refuses to share with us her reasoning for dismissal and raises the question as whether the dismissal is a judicial act or under administrative authority for the reason that the Constitution requires a trial. (Amendment 7). Also, it is well settled that the party moving for summary judgment has the burden of demonstrating that the Rule 56(c) test--"no genuine issue as to any material fact" is satisfied. Adickes v S.H. Kress & Co., 1970, 90 S.Ct. 1598, 1608 and "for these purposes the material it lodged must be viewed in the light most favorable to the opposing party."

The Opinion on page 5. states the conclusion: "Plaintiff seeks to relitigate numerous issues that were decided in the state court." In truth, there was no proper litigation in any state court, simply judges without any jurisdiction acting as absolute dictators and committing crimes against petitioners in conspiracy with their cronies under color of law. There are no proofs to the contrary and as above stated: "it is well settled that the party moving for summary judgment has the burden of demonstrating that the Rule 56(c) test--"no

genuine issue as to any material fact" is satisfied. Adickes v S.H. Kress & Co., 1970, 90 S.Ct. 1598, 1608 and "for these purposes the material it lodged must be viewed in the light most favorable to the opposing party."

With further regard to the raising of a defense of the matter being previously litigated by a state court, this statement is false as although a state § 1983 suit might have been available, petitioner never filed any such suit in any state court. Further, if this was an issue, it too precludes the entry of any summary judgment. There is not even a suggestion from record by any defendant that any state court conducted a trial. Additionally, the complaint showed that the state supreme court consistently refused to allow or hear any appeals as regards the illegal state suits brought under color of law. Rightfully, petitioner is entitled to explore these allegations by discovery. Petitioner was deprived of his investigatory right afforded by way of deposition in the district court suit.

Petitioner was also and further deprived of due process by the failure and/or refusal of the state supreme court to hear his cases. The state has failed to provide an adequate post-deprivation remedy as is required. Paratt v Taylor, 451 U.S. 527 There is no existence of an opportunity for appellate review of the proceedings.

The courts commonly state that a party who asserts a claim for relief under Sec. 1983 must satisfy two elements: (1) the plaintiff must allege that some person has deprived him of a federal right, and (2) he must allege that the person who has deprived him of that right acted under color or state of territorial law. Gomez v Toledo, 446 U.S. 635, 640 (1980) and West v Atkins, N.C. 1988, 108 S. Ct. 2250, 101 L. Ed. 2d 40. There can be no question that in the instant case, your Plaintiffs-Petitioners fulfilled these simple requirements.

For a district judge who has been previously directly overruled on the same points, to again commit the identical errors and even go beyond, defies logic and reason; is incomprehensible and suggests that the judge is deliberately, wilfully undermining and attempting to destroy all rules of law and thereby the government of the United States.

Both defendants Mester and Baguley violated the Hobbs Act, 18 U.S.C. § 1951 which defines extortion as "the obtaining of property from another with his consent, induced by wrongful use of actual or threatened force, violence or fear, or under color of official right." Evans v United States

It appears the same logic applies to the 6th circuit opinion which is in direct conflict with its own previous decisions as well as

decisions of other circuits.

Further, Petitioner showed by proper motion, a lack of impartiality by the district judge. Petitioner, was apprised that at least two of the defendants [defendants Mester and Harnisch] were "close" friends and former federal fellow employees of or with district judge Taylor.

The unfairness that results from biased decision makers strikes so deeply at our sense of justice that it differs qualitatively from the injuries that result from insufficient procedures. In Justice Holmes famous phrase, "even a dog distinguishes between being stumbled over and being kicked." O. Holmes, The Common Law 3 (1881). If someone is deprived of his right to an impartial tribunal, then he is denied his constitutional right to due process. United Retail & Wholesale Emp. v Yahn & McDonnell, 787 F.2d 128 (3rd Cir.1986). Procedural due process guarantees a meaningful opportunity to be heard by a neutral decision maker. Collins v Walden, 613 F. Supp. 1306 (D.C. Ga.1985). Petitioner was not aware of the "close" association of district judge Taylor with defendants Mester and Harnisch early on , but brought a motion for disqualification under 28 U.S.C. §455 and the due process clause. §455(a) contains the standard for determining whether

disqualification is required under the statute:"Any judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

Petitioner contends that although he unequivocally showed that he was deprived of his liberty and property by the resultant extortion of judges and their cronies under color of law that the procedure utilized by the district judge to deprive him of his right to sue under federal laws is constitutionally deficient. § 1983 expressly permits injunctive relief against state judges. Ex parte Virginia, 100 U.S. 339 (1880); Mitchum v foster, 407 U.S. 225 (1972) ; Pulliam v Allen, 466 U.S. 522 (1983)

Petitioner contends that the due process clause requires judge Taylor to step down or aside as any reasonable judge would find it necessary to do so and for the reason that the federal judicial disqualification statute requires disqualification as others would have reasonable cause to questions the judge's impartiality. The record shows definite bias by refusing to permit subpoenaed witnesses to testify at scheduled hearing on application for protective injunctive order where the judges friend incited police to murder petitioner to facilitate the extortion of his property. Further, refusal to enter default judgments upon regularly entered defaults by the Clerk; both

matters involving defendant Harnisch and his several associations.

The 6th circuit not only refused to address these important issues, but proferts that "judicial discretion" replaces the law of the land; eg, the United States Constitution. [See Opinion, II] and III. There are indeed deep questions of fact for determination in the instant matter.

Where a court of competent jurisdiction has jurisdiction of a case its authority continues, subject only to the appellate authority, until the matter is finally and completely disposed of, and no court of co-ordinate authority is at liberty to interfere with its action. Schafer v. Knuth, 14 N.W. 2d 809, 309 Mich 133. Can a state judge arbitrarily and capriciously dismiss the suit without giving any "findings" which the state constitution requires for the reason that such dismissal deprives a litigant/citizen of his right to have access to courts. Does such action violate Article VI. § 6 of the state Constitution?

Morrison provides: "To no one will we sell, to no one will we refuse or delay, right or justice.". This principle is also expressed in the Supreme Court's holding that the due process clause of the 14th Amendment prevents states from 'denying potential litigants use of established adjudicatory procedures when such an action would be

'the equivalent of denying them the opportunity to be heard upon their claimed right." Logan v Zimmerman Brush Co. 455 U.S. 422,429,30 (1982). Petitioners contend that Defendant Baguley indeed "lost" jurisdiction first by arbitrarily and wrongfully dismissing the action in the first instance and again to the appellate court as the law mandates jurisdiction transfers upon the filing of a claim of appeal.

Defendant Baguley further violated the state constitution by refusing to enter findings for dismissal of the case and petitioner asserted that said defendant violated the United States Constitution , U.S. Constitution, Article VI, Clause 2. "The Constitution and the Laws of the United States which shall be made in Pursuance thereof...shall be the supreme law of the Land; and the judges in every state shall be bound thereby; any thing in the Constitution or laws of any State to the Contrary not withstanding."

Therefore, when defendant Baguley entered myriad orders having deputies detain and harass Petitioner; issued arrest warrants without notice both to aid and unjustly enrich his fellow conspirator defendant Condit and to intimidate Petitioner from coming to court for fear of illegal arrest and detention; orders depriving Petitioner of his rightful $30,000; and still other orders giving his co-conspirator

Condit and additional amount in excess of $20,000; defendant Baguley, in fact, had no jurisdiction and committed all of these atrocities and misappropriation of $50,000. + under color of law and in direct violation of constitutional rights of Petitioner.

On p.4 of the Opinion it is stated by conclusion:" Plaintiffs have failed to allege any unconstitutional policy or custom attributable to these particular defendants." "Further, the complaint includes no specific allegations regarding the Sixth Michigan Circuit Court or the Oakland probate Court. Petitioner does not think these statements are factual, but even if they were, these grounds would not suffice to grant dismissal prior to investigatory procedures and the rule of law is contrary, permitting amendment by right and by leave.

Normally a judge should review allegations of a motion for summary judgment as it normally is not made or opposed on the basis of pleading alone. Ratner v Young, D.C. Virgin Islands 1979, 465 F. Supp. 386, 389.

As in Morrison, plaintiffs have a right to amend their complaint as a matter of course. Manning v Greensville Memorial Hospital 1979 E.D. Va. 470 F. Supp 662; Wedgeworth v Fireboard Corp. 1983 CA 5 La 706 F. 2d 1042 Driscoll v Smith Barney Harris Upham & Co.1987 CA 11 Fla 815 F. 2d 655. The 6th

Circuit reversed judge Taylor stating that the raising of substantial constitutional question precluded summary judgment and assessment of fees and costs against plaintiff.

The general rule is that:"if an amendment would change the result of the motion, it should be permitted and summary judgment denied." Kane v Chrysler Corp., D.C. Del. 1948, 80 F.Supp.360 and "Where defendant had only filed motion to dismiss, which is not responsive pleading, plaintiff still had right to amend his complaint. Miles v Department of the Army (1989) CA 9 Cal, 881 F.2d 777. "leave to amend shall be freely given when justice so requires, particularly where amendment to pleading is aimed at curing Eleventh Amendment pleading defect. Gramegna v Johnson(1988 CA 11 Ala) 846 Fed 2d 675. [Another case on all 4(s)] as Plaintiff had amended to delete the state on the basis of the then recent Hafer v Melo decision (1991) 116 L. Ed 2d 301 which held:"the Federal Constitution's Eleventh Amendment, which immunizes states from suit in federal court, does not bar suits brought against state officials in their individual capacities under §1983."

"Outright refusal to grant leave to amend without any justifying reason appearing for denial, is not exercise of discretion, it is merely abuse of that discretion and inconsistent with the spirit

of the Federal Rules." Foman v Davis(1962 371 U.S. 178; Gootee v Colt Industries, Inc.(1983, CA 6 Mich) 712 F.2d 1057. "Denial of leave to amend when there is no res judicata bar to movant's filing of new action violates directive of Rule 1 that Rules must be construed to secure just, speedy, and inexpensive determination of every action since filing of new action constitutes functional equivalent of granting motion to amend and all that is accomplished is that case is set back on trial docket and disposition on merits delayed." Dussouy v Gulf Coast Invest. Co. (1981 CA 5 La) 660 F.2d 594. Compare these decisions with the Opinion, II on p. 6, wherein it is suggested the lower court entered a finding that a proposed amendment was frivolous. The Opinion itself is vicious and malicious.

This can be contrasted with the identical suit being filed in Oakland County while the Lapeer suit was pending by defendant Condit. Both state and federal law provide that the second court (Oakland) cannot oust the first court. Millman Bros. Inc v City of Detroit, 139 N.W. 2d 139 (1966). There is no question that the Oakland court could not and did not, in fact, acquire any jurisdiction. All attempted proceedings are a nullity. People v McKinnon, 362 N.W. 2d 809, 139 Mich App 362.(1984)

Petitioners claim under the Seventh and Fourteenth Amendments is that any citizen of the United States, even a lawyer, may not be deprived of their right to have access to the courts. This is sometimes construed with provisions of the Fourteenth Amendment requiring due process.

There is no question that the federal constitutional provision of a right to a jury trial in civil cases applies to federal cases. Curtis v. Loether, 415 U.S. 189, 192 (1974). The supreme court stated that the 'involvement of a state official...plainly provides the state action essential to show a direct violation of...Fourteenth Amendment...rights, whether or not the actions...were officially authorized, or lawful." Flagg Bros. v Brooks, 436 U.S. 149, 157 (1978)

When Congress enacted § 1983 as the statutory remedy for violations of the Constitution, it specified that the conduct at issue must have occurred "under color of" state law; thus liability attaches only to those wrongdoers "who carry a badge of authority of a State and represent it in some capacity, whether they act in accordance with their authority or misuse it." Monroe v Pape, 365 U.S. 167, 172 (1961)

"Misuse of power, possessed by virtue of state law and made

possible only because the wrongdoer is clothed with authority of state law, is action taken "under color of" state law." NCAA v Tarkanian, 488 U.S. 179 (Ibid.)

On p. 8 of the Opinion the conclusion is stated: "The district court properly levied sanctions on plaintiffs due to the vexatious nature and impropriety of the entire litigation."

The general rule as regards sanctions is:" Requirements of due process limit courts exercise of its inherent power to dismiss action; therefore dismissal is permissible sanction only when deception of court relates to matters in controversy and due to its harshness should be imposed only in extreme circumstances." U.S.C.A. Const. Amend. 5. In the instant matter, the district judge's decision(s) are absolutely perverse as is the Opinion of the 6th circuit court of appeals. Again, the rule of law is:"District court's imposition of monetary sanction against attorney for abuse of judicial process without affording attorney prior notice and opportunity to be heard violates due process. Eash v Riggins Trucking, Inc.(1985,CA3 Pa) 757 F2d 557. District court's use of sanctions is limited by two standards: first, any sanction must be just; second, sanction must be specifically related to particular claim which was at issue in order to provide discovery. Insurance Corp. of

Ireland, Ltd. v Compagnie des Bauxites de Guinee, 465 U.S. 694(1982).

Sanctions interfering with a litigant's claim or defenses violate due process when imposed merely for punishment of an infraction that did not threaten to interfere with the rightful decision of the case. G-K Properties v Redevelopment Agency, 577 F.2d 645, 648 (9th Cir.1978) Wyle v R.J. Reynolds Industries, Inc., 709 F.2d 585 (1983) . Sanctions which interfere with litigant's claim or defenses violate due process if they are imposed ,merely for punishment of infraction that did not threaten to interfere with rightful decision of case so that delay alone, without focus on effects would not justify dismissal or default. F.R.C.P.37, 28 U.S.C. Wanderer v Johnston, 910 F.2d 652(9 Cir. 1990)

Although district court is not routinely required to make findings and conclusions in Rule 11 cases, record must reflect some reason for court's decision. Figueroa-Ruiz v Alegria (1990 CA1 Puerto Rico)905 F.2d 545

Petitioner also brings to the attention of the Court that under the proposed amendments to Rule 11, a motion for sanctions is required to describe the specific conduct alleged to violate the rule; and further, it shall not be filed unless the challenged {whatever} is

not withdrawn or corrected within 21 days or such other time as the court may prescribe. Neither may monetary sanctions be awarded unless the court's order to show cause is issued before a voluntary dismissal or settlement of the claim; and the court is required to recite the conduct or circumstances determined to constitute a violation of the rule and explain the basis for a sanction. Petitioner reminds the Court that he is a victim of unscrupulous conduct by both state and federal judges.

REASONS FOR GRANTING THE WRIT(S)

II.

What to do in the case of a corrupt, inept, or partisan jurist. The question is, How to remove the unethical or miscreant judge ?

The first three Articles of the Constitution establish and describe the impeachment process.

The decision below transcends all of the laws of the United States under the Constitution and laws affording rights to citizens and should subject both the district judge and each member of the panel of the United States Court of Appeals involved in its unpublished decision to trial for impeachment by the United States Congress upon recommendation by any member of Congress under Article III and for disciplinary action under 28 U.S.C. § 372 (c)(1)

1982 by this honorable supreme court.

The Opinion of the 6th Circuit Court of Appeals appears to suggest that judicial discretion is on a higher plane than the Constitution and other laws of the United States passed by Congress and said court also chose to ignore its supervisory role of federal questions in U.S. District court and power over state courts with regard to federal precepts.

It appears that for any citizen to achieve justice or even the fundamental rights afforded under the Constitution, he or she must persuade the Chief Justice of the U.S. Supreme Court to order scrutiny of the errant judges by the Public Integrity Section of the Justice Department.

The aggregate Michigan Constitution, 1963 and statutes with regard to judges are in direct conflict with the United States Constitution.

Const. 1963, Art.6, Sec.4 grants the Michigan supreme court general superintending control over all courts, but withholds the power to remove a judge. Art.6, Sec.30 is in direct conflict, permitting removal upon recommendation of a 9 member commission comprised of 4 judges, one more judge and 2 lawyers and 2 non lawyer/judges. The people are disfranchised.

Art.2, Sec.8 provides for recall of all elective officers EXCEPT JUDGES. Art.6, Sec.22 provides that judges may file an affidavit of candidacy in lieu of nominating petitions. Art.6, Sec.24 gives a judge a ballot designation.

What has happened to the 14th Amendment provision: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States?

What has become of the equal protection of the laws?

These state laws create an aristocracy permitting judges to rule the people as tyrants and despots. Judges even create court rules and rule that they take the place of laws. Krajewski v Krajewski, 125 Mich App 407 (1983), Rev'd on other grounds, 420 Mich 729 (1984), MCR (1992) 7.201 (D). The court shall sit to hear cases in panels of three judges. MCR (1992) 7.201 (E) . . . the chief judge shall assign the judges to each panel. Such a rule invites corruption.

The State Bar of Michigan has even initiated disbarment proceedings against your Petitioner for exposing judicial corruption by filing a public suit in accordance with law. The fact that such Bar procedure is Constitutionally deficient for the reason that it deprives petitioner of his livelihood and property, without any due process of law, and is further brought for the purpose of intimidating

petitioner, falls on deaf ears.

The victimization of petitioners as citizens, and senior citizens at that, must have a chilling effect on all American citizens.

The Opinion, p. 8 correctly sets forth that the brief; eg, record, "is a collection of accusations and bizarre tales against Michigan's entire court system, its Constitution, various judges and attorneys, entire law firms and several individuals. These accusations cover a broad scope and include such crimes as bribery, extortion, false arrest, false imprisonment, neglect, death threats, racketeering, fraud, judicial corruption, false imprisonment, illegal search and seizure, the "buying" of judges, judicial retaliation, harassment by police, and a wide-ranging conspiracy against plaintiffs."

For reasons that could only be attributed to a cover-up, the opinion then states the false conclusion: "Plaintiffs have invoked this courts jurisdiction not to appeal an incorrect decision, but to relitigate the entire matter."

Webster's Dictionary defines litigate as: a contest at law. Relitigate then must necessarily connote a revival. Petitioner contends that since the district judge summarily dismissed the action, there was no "litigation"; further, petitioner was deprived of his right to have access to courts; that is, litigation as is commanded by the

Constitution. Petitioner further contends that such summary dismissal violates several other Constitutional provisions guaranteed to all citizens; such as, a right to trial by jury.

Plaintiff showed two cases on all 4(s): In civil rights suit, there were issues of fact concerning probable cause for arrest and use of excessive force, precluding summary judgment on claims of false arrest, false imprisonment and use of excessive force. Simpson v Saroff, D.C.N.Y. 1990, 741 F. Supp. 1073 . And in Morrison the 6th circuit stated:"It is a prime tenet of our American political philosophy that government has a responsibility to protect the lives, liberty and property of its citizens and part of that responsibility includes the provision of courts where individual citizens can seek the vindication of their rights. Morrison has the right to go to court to recover his property; it is not a privilege that can be granted or denied him at the governments whim. it is this right to vindicate one's rights in court that is the heart of the constitutional right to due process of law.

Does the 6th Circuit reverse itself in the present unpublished opinion because plaintiffs are Caucasian ? Bias ? Prejudice ? Reverse discrimination ?

Can one panel reverse already established law ? Precedent

says no.

Dismissal of the complaint suggests that the U.S. district judge would limit civil rights to specific ethnic minorities. Petitioner contends that to limit minorities access to the courts for redress of civil rights would be as fundamentally evil as the racism which plagues the minorities. The civil rights statutes that were designed to protect the rights of racial minorities evolved into causes of action available to anyone whose constitutional rights were being taken away from them.

Petitioner contends that the basic purpose of the Civil Rights Act is to protect constitutional rights for all citizens.

Under 42 U.S.C. §1983, a party deprived of a federal constitutional or statutory right by a public official may seek redress in federal court. The civil rights statute serves three functions:(1) it operates to deter public officials from violating citizens constitutional rights; (2) it affords compensation to victims of unconstitutional official behavior; and (3) it serves as a vehicle for the development of federal constitutional rights. Carey v Piphis, 435 U.S. 247, 253-57 (1978).

No American should forget the words of Martin Neimueller commenting on Nazi Germany: "In Germany they came for the

Communist, and I didn't speak up because I wasn't a Communist. Then they came for the jews and I didn't speak up because I wasn't a jew. Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics, and I didn't speak up for I was a Protestant. Then they came for me, by that time, nobody was left to speak up."

The Opinion below goes even further and states the further unsupported conclusion:"The district court properly levied sanctions on plaintiffs due to the vexatious nature and impropriety of the entire litigation."

Is it any wonder that there is a growing demand over the past two decades to make governmental officials, including judges, more accountable for their actions ?

It is petitioner's experience that judges place themselves above the law whether miscreant or not. Judges fail to recognize that impeachment could mitigate the damage done to the judiciary as a whole in the unfortunate situation of the miscreant judge. Immunizing judges from criminal prosecution should be foreign to our system of justice.

It is fundamental to our system of justice that no one is above the law and that the guilty be punished. United States v

Clairborne, 790 F.2d 1355,1359 (9th Cir 1986)

"Article III protections...should not be expanded to insulate federal judges from punishment for their criminal wrongdoing." U.S. v Clairborne, 727 F.2d 842 at 847 (1984)

CONCLUSION

For these various reasons this petition for certiorari or in the alternative for a writ of mandamus should be granted.

What is at risk here is the reputation of the United States government and its judicial system as regards protecting its citizens from miscreant lawyers and judges.

Americans are led to believe that their Country will go to War, if necessary, to protect its citizens rights against a foreign power. It appears incongruous that the same government refuses to follow its own Constitution and laws to protect its citizens when dealing with miscreant judges.

One of the greatest threats to judicial independence occurs when, as Harry Clairborne put it, judges become buddies with the prosecution. Fear of investigation and expensive legal defense has the potential to blur the separation of powers by encouraging judges not to antagonize federal authorities. By the same token, judges, if they

break the law...can be prosecuted." Chandler v Judicial Counsel, 398 U.S. 74 at 139 (1970).

The question is: Whether the impeachment process is so clumsy, time-consuming and expensive procedure that the government would rather overlook crimes committed by lawyers and judges. Rather, corruption on the bench or in other public offices is intolerable, not just because of the moral implications, but also because it undermines the norms "indispensable for the maintenance of political democracy". Corruption In the American Political System, Berg,Hahn and Schmidhauser, General Learning Press, 1976.

The sleaze factor that emerges from a reading of this brief as regards corrupt lawyers, judges and other public officials cannot be ignored if the legitimacy of the American judiciary is to be preserved. Bad judges must be removed from office and punished.

Judges and prosecutors, it is said are human. It is a fact that they are subject to the failings of pride, avarice and greed. The federal system of impeachment supplemented by the Judicial Conduct Act has not proven itself to be a deterrent perhaps because some confuse judicial independence with personal independence of the individual judges to act capriciously and decide cases on any basis

other than the laws which are applicable and the facts as they are known.

Petitioner urges this Court to grant certiorari or in the alternative mandamus and to remand this cause to the district court for a public trial and to issue an injunctive order nunc pro tunc in order to preserve the status quo of the petitioners property and individual rights in accordance with principles established by the United States Constitution.

Petitioner also urges that appropriate procedures be immediately initiated by the Chief Justice to discipline the errant federal judges involved in this matter; that the district judge be immediately suspended from office and that investigation and prosecution follow for public corruption and failure to follow the mandates of the Constitution and the laws as made by Congress and that an unbiased judge be assigned from another district to preside at the trial of these matters according to law and that your Petitioners may be accorded such other and further relief as may be agreeable in the premises.

Respectfully submitted,

WILLIAM A. ORTMAN, Pro Se
28010 South Harwich Drive
Farmington Hills, Mi 48334
(810) 626-0078

April 8, 1994

APPENDIX

Order entered January 18, 1994 1a
United States Court of Appeals
for the Sixth Circuit

Order Denying Plaintiffs' Motion
For Preliminary Injunction
Entered January 18, 1992
United States District Court
Eastern District of Michigan

Order Granting Summary Judgment
Entered April 13, 1992
United States District Court
Eastern District of Michigan

Order Denying Motion To Amend Complaint
Entered April 14, 1992
United States District Court
Eastern District of Michigan

Order Denying Motion for Leave to
Amend Complaint
Entered September 4, 1992
United States District Court
Eastern District of Michigan

Order Granting Sanctions
Entered September 4, 1992
United States District Court
Eastern District of Michigan

NOT FOR PUBLICATION
No. 92-2177

JAN 18 1994

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

JAN 18 1994

William A. Ortman; Lavina M. Ortman; Estate of Marcella G. Ortman, Deceased,
Plaintiffs-Appellants,

v.

State of Michigan; County of Oakland; County of Lapeer; County of Kalamazoo; Michigan Supreme Court; Michigan Court of Appeals; 40th Circuit Court; 6th Michigan Circuit Court; 9th State Circuit Court; Oakland County Probate Court; 9-1 District Court; City of Kalamazoo; City of Farmington Hills; Ralph J. Kliber; Gerald Simon; Richard Condit; Alexander B. McGarry; James L. Whyard; Alan Harnisch; Seyburn, Kahn, Ginn, Bess, Howard & Harnisch, P.C.; Condit, McGarry & Schloff, P.C.; Laurencelle & Associates Inc.; Michael F. Cavagnagh, Chief Justice; Charles L. Levin; James H. Brickley; Patricia J. Boyle; Dorothy Comstock Riley; Robert Griffin Conrad Mallett, Jr.; Robert J. Danhoff; Donald E. Holbrook, Jr.,; Joseph B. Sullivan; Mark Cavagnagh; Norbert G. Jaworski; Richard M. Maher; David H. Sawyer; Thomas J. Brennan; Fred M. Mester; Steven Andrews; Hugh Dean, Jr.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

NOT RECOMMENDED FOR FULL TEXT PUBLICATION

Sixth Circuit Rule 24 limits citation to specific situations. Please

Eugene Arthur Moore; John J. O'Brien; Norman Baguley; Martin Clements; William Schma; Donald E. James; Miller, Canfield, Padock & Stone; James E. Spurr; Craig R. Bush; Michael J. Chojnowski; Harnisch & Associates, P.C.; Donald E. Litke; Linda B. Litke; Richard Haliday; Kalamazoo Metal Finishers, Inc.; Fischer, Franklin, Ford, Simon & Hogg; John Doe, Defendants-Appellees.	) see Rule 24 before citing in a proceeding in a court in the Sixth Circuit. ( )cited a copy must be served on other parties and the Court.

Decided and Filed, _____, 1993

Before: NORRIS and SILER, Circuit Judges; and HEYBURN*, District Judge.

PER CURIAM. Plaintiffs appeal the granting of summary judgment for defendants. They also appeal the denial of the motion to file an amended complaint and the imposition of Rule 11 sanctions. For reasons stated herein, we AFFIRM.

Background

This proceeding began as a civil rights action when, in 1991, plaintiffs filed a complaint in the U.S. District Court for the Eastern District of Michigan, alleging that their Constitutional rights under the Fourth,

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* Honorable John G. Heyburn II, United States District Judge for the Western District of Kentucky, sitting by designation.

Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments, and various statutory rights under civil rights statutes and 18 U.S.C. §§ 1961 and 1965 had been violated. The Ortmans contend that a conspiracy exists to deprive them of a trial by jury; that Judge Fred M. Mester wrongfully refused to dismiss this suit; that Judge Mester also hired individuals to set certain real estate belonging to the Ortmans; that William A. Ortman was seized and shackled by sheriff's deputies at the insistence of various defendants; that these and other defendants conspired to deprive William A. Ortman of his rights; that a Michigan Court of Appeals clerk improperly handled their attempts to appeal from lower court actions; that the Michigan Supreme Court wrongfully denied leave to appeal; that one defendant seized possession of

certain assets, and improperly handled certain matters related to the estate of Ortman's father; and that a trust was wrongfully created.

In the district court, the state of Michigan sought dismissal on various grounds. Specifically, that 42 U.S.C. §§ 1981, 1982, 1985 and 1986 pertained to cases involving race-based animus, something neither alleged nor capable of being proved in this case. Judicial immunity was also raised as to those defendants who were judges, or acting on behalf of judges. Further, defendants contended that the matter had previously been litigated in state court and could not be litigated again in federal court. Finally, defendants sought Rule 11 sanctions on the basis that the claims were frivolous. Judge Taylor granted the defendants' motion for summary judgment,

awarded attorney fees and costs to all defendants and denied Ortman's Motion for Leave to Amend Complaint.

I.

As to the judges of the five specific courts and the seventeen individual judges named as defendants in this action, the doctrine of absolute judicial immunity protects them from suit based on their judicial acts. Pierson v. Ray, 386 U.S. 547, 553-54 (1967). This policy is based on the principle that "a judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself." Mireles v. Waco, 112 S.Ct.286, 287(1991). See also Stump v. Sparkman, 435 U.S. 349. 362 (1978). The acts that plaintiffs complain of all took place in

the official capacity of each individual judge.

Similarly, when court personnel act in performance of an integral part of the judicial process or act pursuant to court orders, quasi-judicial immunity applies. Briscoe v. LaHue, 460 U.S. 325, 225 (1983). Thus, the two defendants (Norbert Jaworski and Hugh Dean, Jr.) brought into this action for their actions as court clerks are also immune.

Plaintiffs' most confusing allegations are those against various judicial defendants who allegedly conspired with other defendants to deprive plaintiffs of rights protected by 42 U.S.C. §§ 1981, 1982, 1985 and 1986. Section 1985 provides a cause of action for conspiracy to obstruct justice with the intent to deprive any citizen the equal protection of the laws. However,

it applies only to private conspiracies predicated upon "racial, or perhaps otherwise class-based, invidiously discriminatory animus." Griffin v. Breckenridge, 403 U.S. 88, 101-102 (1971). The other sections are related to § 1985 and require racial or ethical discrimination. See, e.g., St. Francis College v. Al-Khazraji, 481 U.S. 604, 613-614 (1978). Nowhere in the record have plaintiffs alleged any race or class-based animus. Thus, the claims predicated on racial or class-based classifications were properly dismissed.

Plaintiffs also claim that the Oakland County, the Sixth Michigan Circuit Court, and the Oakland County Probate Court violated his rights under 42 U.S.C. § 1983. To prevail on this type of claim against a governmental body as opposed to a "person" the litigant

must point to a policy or custom directly attributable to the defendant. Monell v. Dept. of Social Servs., 436 U.S. 658 (1978). In other words, a plaintiff must produce "considerably more proof than a single incident." Oklahoma City v. Tuttle, 471 U.S. 808, 824 (1985). Plaintiffs have failed to allege any unconstitutional policy or custom attributable to these particular defendants. Further, the complaint includes no specific allegations regarding the Sixth Michigan Circuit Court or the Oakland Probate Court. Thus, the claims against these defendants were property dismissed.

Further, § 1983 claims are alleged against defendants who are attorneys or law firms who represented other defendants in the earlier litigation. These attorneys were later added to the

list of those who violated plaintiffs' rights under 42 U.S.C § 1983. Simply providing legal representation in private litigation does not constitute state action for purposes of liability under § 1983, even if the attorneys were court-appointed. Mulligan v. Schlachter, 389 F.2d231 (6th Circ. 1968). Therefore, the claims against these defendants were properly dismissed.

Also, the claim against the State of Michigan and state courts is a suit against the State of Michigan and, thus, is barred by the Eleventh Amendment. Pennhurst State School and Hosp. v. Halderman, 465 U.S. 89 (1984).

Plaintiffs seek to relitigate numerous issues that were decided in the state court. Federal courts lakc appellate jurisdiction over state court judgments in connection with modifying

them or vacating them. Distrit of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). This court applied the Feldman doctrine in Johns v. Supreme Court of Ohio, 753F.2d524(6th Cir.), cert. denied, 474 U.S. 824 (1985), when it noted that the plaintiff's "unhappiness lies in his disagreement with the Ohio Supreme Court's final decision denying his suit against the state." Id. at 527. The plaintiff had pursued a claim unsuccessfully through the state courts and this court affirmed the trial court's dismissal of the action. Likewise, this appeal on these issues is denied.

Plaintiff's claims are also barred by the doctrine of collateral estoppel. Several issues raised by plaintiffs are identical to those litigated in the state court. Specifically, they complain of

various rulings by lower courts and actions of various court personnel. Once again, this court has spoken on the issue: "Where a party has had a 'full and fair opportunity' to litigate an issue in earlier state proceedings, he is precluded from relitigating the same issue in a later federal case."

Plaintiffs mention, but do not factually support, several allegations with regard to a claim under the Racketeer Influenced and Corrupt Organization Act (RICO) pursuant to 18 U.S.C. §§ 1961, 1965. Several accusations of corruption and a conspiracy to deprive plaintiffs of their rights and property are made, but with no specific details of an enterprise involved in racketeering activities by the defendants. Section 1962 sets forth four general elements to a valid claim:

are unjust and violate due process, they instead recommend that sanctions be assessed against each of the defendants.

Fed. R. Civ. P. 11 mandates the imposition of sanctions under two circumstances: (1) when a pleading, motion, or other paper is not well-grounded in fact or law, and (2) when a pleading, motion, or other paper is interposed for any improper purpose, such as to harass, delay or needlessly increase litigation costs. The rule requires an objective standard when determining whether a pleading was factually or legally warranted. The test to be employed is "what was reasonable to believe at the time the pleading, motion or other paper was submitted." Fed. R. Civ. P. 11, advisory committee's note. Rule 11 also allows sanctions when a pleading is brought for an improper

purpose. The standard for review for the appellate court for both the decision to award and the amount of damages is abuse or discretion. United States v. Alexander, 981 F.2d250 (5th Cir. 1993); Nugget Hydroelectric L.P. v. Pacific Gas & Elec. Co., 981 F.2d 429 (9th Cir. 1992).

It is difficult to discern from plaintiffs' brief the arguments against the Rule 11 sanctions. As is the case throughout, the brief contains substantially more allegations of conspiracies and schemes than specific issues or points of law. The brief is a collection of accusations and bizarre tales against Michigan's entire court system, its Constitution, various judges and attorneys, entire law firms, and several individuals. These accusations cover a broad scope and include such

crimes as bribery, extortion, false arrest, false imprisonment, neglect, death threats, racketeering, fraud, judicial corruption, false imprisonment, illegal search and seizure, the "buying" of judges, judicial retaliations, harassment by police, and a wide-ranging conspiracy against plaintiffs.

The original complaint is no less vague with respect to any facts or points of law. Plaintiffs have invoked this court's jurisdiction not to appeal an incorrect decision, but to relitigate the entire matter. The district court properly levied sanctions on plaintiffs due to the vexatious nature and impropriety of the entire litigation.

AFFIRMED.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM A. ORTMAN and
LAVINA M. ORTMAN, and the
ESTATE OF MARCELLA G.
ORTMAN, DECEASED,

Plaintiffs,

vs. HONORABLE ANNA DIGGS TAYLOR
CIVIL ACTION NO: 91-CV74299-DT

STATE OF MICHIGAN, COUNTY OF LAPEER, COUNTY OF OAKLAND, COUNTY OF KALAMAZOO, MICHIGAN SUPREME COURT, COURT OF APPEALS, 40TH CIRCUIT, 6TH CIRCUIT COURT, 9TH CIRCUIT COURT, OAKLAND PROBATE COURT, 9-1 DISTRICT COURT, CITY OF KALAMAZOO, CITY OF FARMINGTON HILLS, RALPH J. KLIBER, GERALD SIMON, RICHARD CONDIT, ALEXANDER MCGARRY, JAMES L. WHYARD, ALAN HARNISCH, SEYBURN, KAHN, GINN, BESS, HOWARD & HARNISCH, P.C.; FISCHER, FRANKLIN, FORD, SIMON & HOGG, CONDIT, MCGARRY & SCHLOFF, P.C. LAURENCELLE & ASSOCIATES, INC.; MICHAEL F. CAVAGNAGH, CHIEF JUSTICE; CHARLES L. LEVIN; JAMES H. BRICKLEY; PATRICIA J. BOYLE; DOROTHY COMSTOCK RILEY, ROBERT GRIFFIN; CONRAD MALLET, JR.; ROBERT J. DANHOFF; DONALD E. HOLBROOK, JR.; JOSEPH B. SULLIVAN; MARK J. CAVANAGH; NORBERT G. JAWORSKI; RICHARD M. MAHER; DAVID H. SAWYER; THOMAS J. BRENNAN; FRED M. MESTER; STEVEN ANDREWS; HUGH DEAN, JR.; NORMAN BAGULEY; MARTIN CLEMENTS; WILLIAM SCHMA; DONALD E. JAMES; MILLER, CANFIELD, PADDOCK & STONE; JAMES E. SPURR; CRAIG R.

BUSH; MICHAEL L. CHOJNOWSKI; HARNISCH & ASSOCIATES, P.C.; DONALD E. LITKE AND LINDA B. LITKE, RICHARD HALLIDAY; KALAMAZOO METAL FINISHERS, INC., JOHN DOE,

Defendants.

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ORDER DENYING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

At a session of said Court, held in the City of Detroit, County of Wayne, State of Michigan, on January 18, 1992.

PRESENT: HONORABLE _____
District Court Judge

This matter having come before the

Court upon Plaintiffs' Motion for Preliminary Injunction, Defendants' having filed a Response thereto, oral argument having occurred on January 6, 1992, and the Court being otherwise fully advised of its premises.

IT IS HEREBY ORDERED that Plaintiffs' Motion for Preliminary Injunction be, and is hereby DENIED.

/s/ Anna Diggs Taylor
DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM A. ORTMAN and
LAVINA M. ORTMAN, and the
ESTATE OF MARCELLA G.
ORTMAN, DECEASED,

Plaintiffs,

vs. Case No. 91-CV-74299 DT

STATE OF MICHIGAN, COUNTY OF LAPEER, COUNTY OF OAKLAND, COUNTY OF KALAMAZOO, MICHIGAN SUPREME COURT, COURT OF APPEALS, 40TH CIRCUIT, 6TH CIRCUIT COURT, 9TH CIRCUIT COURT, OAKLAND PROBATE COURT, 9-1 DISTRICT COURT, CITY OF KALAMAZOO, CITY OF FARMINGTON HILLS, RALPH J. KLIBER, GERALD SIMON, RICHARD CONDIT, ALEXANDER MCGARRY, JAMES L. WHYARD, ALAN HARNISCH, SEYBURN, KAHN, GINN, BESS, HOWARD & HARNISCH, P.C.; FISCHER, FRANKLIN, FORD, SIMON & HOGG, CONDIT, MCGARRY & SCHLOFF, P.C. LAURENCELLE & ASSOCIATES, INC.; MICHAEL F. CAVAGNAGH, CHIEF JUSTICE; CHARLES L. LEVIN; JAMES H. BRICKLEY; PATRICIA J. BOYLE; DOROTHY COMSTOCK RILEY, ROBERT GRIFFIN; CONRAD MALLET, JR.; ROBERT J. DANHOFF; DONALD E. HOLBROOK, JR.; JOSEPH B. SULLIVAN; MARK J. CAVANAGH; NORBERT G. JAWORSKI; RICHARD M. MAHER; DAVID H. SAWYER; THOMAS J. BRENNAN; FRED M. MESTER; STEVEN ANDREWS; HUGH DEAN, JR.; NORMAN BAGULEY; MARTIN CLEMENTS; WILLIAM SCHMA; DONALD E. JAMES; MILLER, CANFIELD, PADDOCK & STONE; JAMES E. SPURR; CRAIG R. BUSH; MICHAEL L. CHOJNOWSKI; HARNISCH &

ASSOCIATES, P.C.; DONALD E. LITKE AND LINDA B. LITKE, RICHARD HALLIDAY; KALAMAZOO METAL FINISHERS, INC., JOHN DOE,

Defendants.

ORDER GRANTING SUMMARY JUDGMENT

All Defendants herein having filed motions for summary judgment which the Court has heard argued, with Plaintiff Ortman's responses thereto, and the Court having studied the briefs, files and records in the case; now, therefore

IT IS ORDERED that summary judgment be and hereby is entered for Defendants herein, for the reasons briefed and argued.

IT IS FURTHER ORDERED, pursuant to Rule 11 of the Federal Rules of Civil Procedure, that each of the Defendants granted their motions for summary judgment this date be and hereby are awarded all attorney fees and costs incurred because of the necessity to file and argue said

motions, to be paid by Plaintiff, who is an attorney and represented himself herein. All fees and costs incurred by each Defendant from date of filing of said motion are awarded, as there can be no question but that Plaintiff Ortman's pursuit of this matter after filing of these motions was without reasonable inquiry as to either relevant fact or law.

Petitions for fees and costs shall be filed and served on Plaintiff within 10 days of the date of this order, fully supported by time records and affidavits. If there is no objection to the reasonableness of those fees and costs from Plaintiff within 10 days thereafter, the Court will enter its order awarding the amounts requested. If objections are filed, the Court will hold hearing thereon prior to making its award.

IT IS SO ORDERED.

/s/ Anna Diggs Taylor

ANNA DIGGS TAYLOR
UNITED STATES DISTRICT JUDGE

Date: April 13, 1992

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM ORTMAN, et al.,

Plaintiffs,

v. Case No. 91-74299
Hon. ANNA DIGGS TAYLOR

STATE OF MICHIGAN, et al.,

Defendants.

ORDER DENYING MOTION FOR LEAVE TO AMEND

This matter having come before the Court of Plaintiffs' Motion to for Leave to Amend Complaint, the Court having reviewed the pleadings submitted pursuant to said motion, and being otherwise advised in the premises, now, therefore;

IT IS ORDERED that Plaintiffs' Motion for Leave to Amend be and hereby is DENIED.

IT IS SO ORDERED.

/s/ Anna Diggs Taylor

ANNA DIGGS TAYLOR
UNITED STATES DISTRICT JUDGE

Dated: September 4, 1992